

# **2009 LOUISIANA BOARD OF ELECTION SUPERVISOR'S HANDBOOK**

## **DUTIES AND RESPONSIBILITIES**



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# Parish Board of Election Supervisor's Handbook

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July, 2009

## Dear Board of Election Supervisors Member:

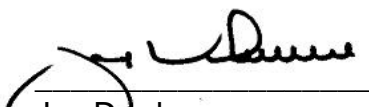
This publication of the Parish Board of Election Supervisor's Handbook represents an effort by the Secretary of State's Office to provide an overview of the duties and responsibilities of the board and its members.

This handbook consists of a summary of the laws and rules on elections and on your office. Those who need to consult the official statutory laws or rules should refer to the Election Code, the Attorney General's office or to West's Louisiana Statutes Annotated or LexisNexis Louisiana Annotated Statutes.

Additional copies of this handbook may be requested through the Secretary of State's Publications Division, P. O. Box 94125, Baton Rouge, LA 70804-9125, or by calling (225) 922-0900 or (800) 883-2805.

We hope that you will find this handbook to be a useful reference tool and guide. With best regards, we remain

Very truly yours,

  
Jay Dardenne  
Secretary of State

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## **PARISH BOARDS OF ELECTION SUPERVISORS**

### **Chapter 1. General Provisions**

Parish boards of election supervisors are statutorily created in the Election Code, in LSA-R.S. 18:423. The purpose of the board in each parish is to oversee and supervise all elections within the parish. This is a very important and vital service to your parish and to our state in furthering and ensuring the safety and accuracy of our democratic process.

#### **A. Composition**

- The board is composed of the following members in each parish:
  1. Registrar of voters, or designee. (designee must be a sworn deputy registrar)
  2. Clerk of court, or designee.
  3. Chairman of the democratic parish executive committee, or designee of the same committee.
  4. Chairman of the republican parish executive committee, or designee of the same committee.
  5. Governor appointee.
- If a parish executive committee has not been formed in a particular parish, a voter registered with the party may be appointed by the chairman of the state central committee of that political party to serve on the board.
- All elected/appointed members continue to serve until their successor is sworn into office, pursuant to LSA-R.S. 42:2.
- Each member of the board is a “public officer” as defined by LSA-R.S. 42:1, meaning a person holding a public office in this state and a member on a board or commission is a “public office”.

#### **B. Powers and Duties**

- The board supervises the preparation for and the conduct of all elections held in the parish.
- All papers filed with the board are filed with the president or secretary of the board.
- The board maintains a permanent street address, which is filed with the secretary of state and the clerk of court.

#### **C. Legal Representation**

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- The attorney general is the attorney and legal advisor to the board, and may designate the appropriate district attorney to represent the board.
- The attorney general may, with respect to a particular matter, authorize the board to employ special counsel.
- Any compensation for special counsel is fixed by the board, subject to approval by the attorney general, and is paid by the parish governing authority.

### **Chapter 2. Officers**

#### **A. President**

- Every four years, following the election of the Governor, the parish board of election supervisors ("the board") meets no later than July of the new gubernatorial term and elects one of its members to serve as president of the board.
- The president should be responsible for ensuring that all meetings are held in accordance with law, including the requirement of a quorum at all meetings, and held in accordance with the open meetings law, as described under LSA-R.S. 42:4.1-13. See Addendum A.

#### **B. Secretary**

- The board may also elect one of its members to serve as secretary of the board.
- A non-member of the board may not serve as secretary and receive compensation from the department without the advanced written approval of the secretary of state or his designee.
- The board in a parish containing a municipality with a population of 450,000 or more may employ an executive administrator who will be the principal assistant to the board.

#### **C. Filing Requirements**

- The board files a list of its officers with the secretary of state after election every four years, and whenever one or more of its officers change.

### **Chapter 3. Compensation, Materials, Expenses**

#### **A. Compensation, materials, and expenses**

- Refer to the Election Expense Manual.

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- View the Election Expense Manual on-line at <http://www.sos.louisiana.gov/Portals/0/elections/pdf/ElectionsExpenseManualFinal.pdf>

### **Chapter 4. Public Meetings and Public Records**

#### **A. Meetings – General Information**

- The board shall conduct its business in the presence of a quorum of at least three members.
- All meetings are open to the public; however, anyone attending the Election Day meeting for counting and tabulating absentee and early voting ballots will be sequestered until 8:00 p.m.
- Written public notice must be given of all meetings at least 24 hours before the meeting, unless case of extraordinary emergency. Such notice must be either posted at principal office of board, posted where meeting is held, or by publication in official journal. Notice must include date(s), time(s) and place of meeting(s). Additionally, board must annually give written public notice of regular meetings at the beginning of each calendar year. See, R.S. 42:7 in Appendix A for additional information.
- Minutes must be taken at every meeting.
- Documentation of attendance at meetings may be required, such as signed voting machine tapes or other documents.
- Time and Expense Report forms must be filed for every meeting in order for the board member to be paid.
- The board is a public body, subject to the open meetings law.
  - Every meeting of the board shall be open to the public unless closed for an executive session pursuant to LSA-R.S. 42:6 and 6.1.
  - The board must vote by voice, and is prohibited from voting by proxy, secret balloting, or any other means to circumvent the intent of the open meetings law.
  - All votes shall be recorded in the minutes of the meeting, which shall be a public document.
  - See Addendum A for the law on open meetings.

#### **B. Statutory Public Meetings Open to the General Public**

- The 1<sup>st</sup> Friday in December each year, the board selects a commissioner-in-charge to serve at each precinct in the parish. The board issues a commission to each commissioner-in-charge for a term of one year, beginning January 1.

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- The 5<sup>th</sup> day before:
  - A primary or first party primary election, the board **may** select absentee by mail and early voting commissioners (and alternates).
  - A second primary or general election, the board **may** reduce or increase the number of absentee by mail and early voting commissioners (and alternates); this meeting is open to the public.
- The 29<sup>th</sup> day before a primary, first party primary or proposition election, the board selects the commissioners (and alternates) for each precinct.
- The board shall meet prior to the conduct of early voting, for the sealing of early voting machines, and generate a zero tally for each machine before the parish custodian seals the voting machine. The parish custodian (clerk) is required to notify each candidate of the time and place of this meeting.
- On Election Day, the board counts and tabulates absentee by mail and early voting ballots; this meeting is open to the public, but everyone who attends is sequestered until at least 8:00 p.m. when the polls close.
- The 3<sup>rd</sup> day after the election, one board member assists the clerk of court in opening the voting machines. The board observes the verification of the votes, and begins to compile the election returns. In a federal election, the board also counts provisional ballots.
- The 4<sup>th</sup> day after the election, the board completes the compilation of election returns and files one copy of the compiled statement with the clerk of court and another copy is mailed to the secretary of state.
- If requested by a candidate in writing to re-inspect machines and/or recount ballots and if the number of absentee by mail and early voting ballots cast for all candidates for an office could make a difference in the outcome of the election, or if ordered by court, the board **must** meet on the 5<sup>th</sup> day after an election at 10:00 a.m. to:
  - Recount the absentee by mail and early voting ballots for a particular office.
  - Inspect absentee voting flaps.
  - Re-inspect the voting machines.
    - Written request must be filed with clerk by the last working day prior to the date of recount.
    - Clerk shall post notice of time and place for recount in his office and name of requesting candidate.
    - Candidate is responsible for all reasonable costs associated with recount, including reimbursement at the rate of \$50 to each board member attending the recount.
- Any other meeting called by the board is subject to the open meetings law.

### C. Public Records

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- Each parish board of election supervisors is a “public body” for the purposes of the public records law in LSA-R.S. 44:1 *et seq.*
- All books, records, writings, accounts, letters, memoranda, papers, etc. and all copies or other reproductions having been used, being in use, or prepared, possessed or retained for use in the conduct of the board's business are “public records”.
- The public official or head of the public body having custody or control of the public record is the “custodian” of the record.
- Certain information in a public employee's personnel records are confidential, such as the home telephone number if private or unlisted or where the employee has requested that the number be confidential, and the home address of the employee, if requested to remain confidential.
- Providing access to public records is a responsibility and duty of the office of the custodian and his employees. Any person of the age of majority may inspect, copy or reproduce, or obtain a reproduction of any public record. Some public officials, such as Registrars of Voters, may have more specific laws on copying of public records, which supersede the general law.
- The custodian shall present any public record to any person of the age of majority who so requests, and can only inquire as to the age and identification of the person. The custodian may require the person to sign a register, and may maintain such vigilance as is required to prevent alteration of any record while it is being examined. Any nonpublic record may be separated before examination.
- For copies, the custodian may collect reasonable fees, furnish without charge or at a reduced charge to indigents.
- Upon a request to review a public record, if a question is raised by the custodian as to whether it is a public record, the custodian shall within 3 days (not including Saturdays, Sundays, and legal holidays) of receipt of a written request for a record, notify in writing the requestor of his determination and reasons.
- If the public record requested is not in the custody or control of the person to whom the application is made, such person shall certify this in writing to the applicant and state to the best of his knowledge the reason for the absence of the record and its location.
- **There are specific provisions of the Election Code which require the preservation of certain election documents, which are a specific exemption to the public records laws.**



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## **Chapter 5. Commissioners and Watchers**

### **A. Election Day Workers**

- The board selects commissioners-in-charge, commissioners, and alternate commissioners for every election and issues commissions to same.
- Law enforcement officers are not eligible to serve as commissioners-in-charge, commissioners, alternate commissioners, or watchers.
- In the event of a replacement of a commissioner-in-charge or commissioner, the board issues a commission to the replacement commissioner-in-charge or commissioner.
- The board may submit a written request to the Secretary of State, on or before the 23<sup>rd</sup> day before the election, for additional commissioners for overcrowded precincts.
- After the general course of instructions for commissioners has been conducted by the Clerk, the board furnishes to each commissioner-in-charge a list of all certified commissioners registered to vote in the ward, and who have not already been selected to serve in the election.
- If the clerk of court has conducted a pre-election course of instruction, the board furnishes to each commissioner-in-charge a list of all certified commissioners registered to vote in the ward who have completed the pre-election course of instruction and who have not already been selected to serve in the election.

### **B. Disqualification of Election Day worker**

- Prior to the disqualification of a commissioner-in-charge or commissioner, the board conducts a hearing and offers the commissioner-in-charge or commissioner an opportunity to be heard.
- All hearings are public meetings and should be conducted under the open meetings law.
- The board should notify the commissioner-in-charge or commissioner of the reasons for conducting a disqualification hearing and allow them to appear, be heard and show, if they can, why they should not be disqualified.
- The Attorney General's office should be contacted to assist in any disqualification hearing.

### **C. Watchers**

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- The board issues commissions to watchers, and before the polls open the board provides each precinct with a list of the watchers and alternate watchers entitled to serve at the election. A commissioner-in-charge or commissioner may not be commissioned as a watcher, but an alternate commissioner may be commissioned as a watcher, but if selected to serve as commissioner, may not also serve as watcher.
- Each candidate is entitled to have one watcher at every precinct where the office he seeks is voted on in any primary or general election.
- The candidate or his authorized representative (with a letter of authorization from the candidate) is required to file a list of watchers with the Clerk before 5 p.m. on the 10<sup>th</sup> day before any primary or general election.
- Any person supporting or opposing a proposition or question who has filed the necessary campaign finance report is entitled to have one watcher at every precinct where the issue he seeks to influence is voted on in an election.
- A watcher and alternate watcher may serve at the same precinct on Election Day, but not at the same time.
- Watchers must be a qualified voter of the State of Louisiana who is not entitled to assistance in voting and not a candidate in the election.

### **Chapter 6. Early Voting**

- The board is responsible for generating a zero tally from each early voting machine after the voting machines have been examined and tested, and prior to the conduct of early voting.
- The parish custodian (clerk) then seals the early voting machines.

### **Chapter 7. Election Day**

#### **A. Election Day Voting Machines**

- The number of voting machines are allocated by law based on the number of active voters in a precinct, under LSA-R.S. 18:196 and 18:1363. The board may reduce the number of voting machines to be used in a proposition, candidate or political party committee (PPP) election. In such case, the board shall notify the clerk and the secretary of state at least 3 weeks prior to such election, and receive approval from the Secretary of State.
- The board may reduce the number of voting machines for candidate elections where more than one polling place is within the same location and the board has consolidated polling places in that location for that election in accordance with R.S. 18:425.1. The board shall notify the clerk and the Secretary of State.

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- The board may reduce the number of voting machines where only the political party committee members are on the ballot. The board shall notify the clerk and the secretary of state not less than 21 days prior to such election.
- The board may submit a written request to the secretary of state for additional voting machines for overcrowded precincts on or before the 23<sup>rd</sup> day prior to an election.
- After the machines are tested by the secretary of state's mechanics and technicians, the Clerk seals the machines no later than 36 hours prior to the opening of the polls.
- At least one member of the board assists the clerk of court in opening the voting machines on the 3<sup>rd</sup> day following the election. Public and protective counter numbers shall be recorded and election results on each machine shall be verified. The clerk may utilize deputy clerks and other employees in this process.
- After all machines are opened, the clerk shall verify, in the presence of the board, the total votes cast for each candidate and for and against each proposition as shown on the voting machines or result sheets and the total number of absentee by mail and early voting votes cast for each candidate and each proposition as shown by the tabulation blanks filed with the clerk by the board.

### **Chapter 8. Absentee & Early Voting Tally**

#### **A. Absentee By Mail and Early Voting Tabulation**

- Absentee by mail ballots and early voting ballots are tabulated and counted by the board on Election Day and a vote report is immediately transmitted to the clerk of court.
- The board may utilize absentee by mail and early voting commissioners to count these ballots, selected pursuant to R.S. 18:1314. However, if a majority of the board are not present to count, the members present may select a sufficient number of absentee by mail and early voting commissioners on Election Day to assist in the counting.
- Counting shall be at the office of the registrar of voters or at a public facility within the parish designated by the board at a time fixed by the board, which shall be no earlier than 1 p.m. and no later than 8 p.m. on Election Day. The board or commissioners may request security and technical assistance from the secretary of state in person or by telephone.
- If the count begins prior to the closing of the polls, the count shall be conducted in a location and manner to prevent disclosure of the results prior to the closing of the polls. Each person, except the security or technical assistance personnel authorized by the secretary of state, who enter the counting location shall remain in that location and shall not be allowed to leave except temporarily, and then only accompanied by security (for bathroom break), and shall not communicate

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- with any person outside until the polls close. (Security should require all electronic communication to remain with him until person is authorized to leave).
- During the counting of absentee by mail and early voting ballots, the board or commissioners determine by majority vote:
    - The validity of any ballot challenged.
    - Whether or not to reject a ballot with a distinguishing mark.
    - The status of any ballot cast by a voter who died prior to opening the polls.
  - Recount of Absentee By Mail/Early Voting Ballots: On the 5<sup>th</sup> day after an election, if requested by a candidate in writing (or at any time ordered by a court) the board shall meet to recount the absentee by mail and early voting ballots for a particular office and/or re-inspect the voting machines. See, Chapter 4. B.

## Chapter 9. Election Day & Provisional Voting Tally

### A. Election Results

Election returns are compiled and certified by the board after each election:

- 3<sup>rd</sup> day after the election, voting machines are opened. If the 3<sup>rd</sup> day falls on a Saturday, Sunday, or other legal holiday, then the machines are opened on the 2<sup>nd</sup> day following the election.
  - For a Saturday election, 3<sup>rd</sup> day is Tuesday.
  - For a Tuesday election, 3<sup>rd</sup> day is Friday.
- All vote totals cast for each candidate and total votes cast for and against a proposition as shown either on the voting machine or election results sheets, and the total number of absentee by mail and early voting votes cast for each candidate and proposition, as shown by the tabulation blanks filed with the clerk shall be verified by the clerk in the presence of the board. Verification must include a comparison of the vote totals with the results reported to the Secretary of State.
- All provisional ballots must be counted by the board. (See following section for details).
- The board is required to publically prepare two (2) compiled statements of the election returns as shown by the record of votes made by the Clerk, after the verification and counting of provisional ballots. One (1) copy to be filed with the Clerk no later than 4:00p.m. on the 4<sup>th</sup> day after the election, and one (1) copy to be mailed to the Secretary of State no later than 12 noon on the 5<sup>th</sup> day after the election.
- The board, by majority vote, may attach a notation of any irregularities observed by the board to the compiled statements. Examples of irregularities may include:

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- ❖ The security of the polling place, or warehouse;
- ❖ The security of the voting machines;
- ❖ The physical condition of the voting machines;
- ❖ The physical condition or substantive contents of the election materials in the voting machine; or
- ❖ Any other matter affecting the verification of the vote totals by the Clerk.

### **B. Provisional ballots**

- On or before the 3rd day following the election and prior to the compilation of returns, available registration documentation is provided to the board for the purposes of determining if the individual casting a provisional ballot is a registered voter and eligible to vote in the election.
- The board is responsible for the counting and tabulation of all provisional ballots for federal offices. Provisional ballots are counted by hand.
- For a presidential or regularly scheduled congressional general election, the provisional ballots may be counted on the 3<sup>rd</sup> or 4<sup>th</sup> day, or both, following the election.
- If the board determines that absentee by mail and early voting commissioners are necessary to assist in counting provisional ballots, the board must obtain the approval of the Secretary of State before selecting the absentee by mail and early voting commissioners.
- In a parish where no absentee by mail and early voting commissioners are utilized during the early voting period, the board may utilize commissioners to count the provisional ballots; if so, the selection and compensation of such commissioners shall be in the same manner as absentee by mail and early voting commissioners.
- Provisional ballots shall be counted on the third day following the election, and prior to the compilation of returns, at the office of the registrar of voters or at a public facility within the parish designated by the board.
- Candidates, their representatives, and qualified electors may be present during the counting and tabulation of provisional ballots.

## **Chapter 10. Publications and Notices**

### **A. Official Parish Journal Publications**

- The board publishes notice of the meeting to select commissioners and alternate commissioners in the official parish journal and posts a notice on the front courthouse door.
- The board publishes the location of the polling places in the parish at least once before each primary or first party primary election in the official parish journal, during the third week before the election.

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- When a precinct or polling place is established or changed, the parish governing authority (not the board) is required to publish notice in the official parish journal.

### **B. Secretary of State Notifications**

- After the commissioners-in-charge are selected, the board compiles a list of their names, social security numbers, party affiliations, and mailing addresses and mails it to the secretary of state.
- The board notifies the Secretary of State of a polling place consolidation as discussed in Chapter 7 and Chapter 11.

## **Chapter 11. Polling Places**

### **A. Consolidation of Polling Places**

- If more than one polling place is within the same location, the board may consolidate the polling places and reduce the number of voting machines.
- If polling places are consolidated, the board notifies the clerk of court and the secretary of state of the consolidation and indicates the number of voting machines needed.
- In a consolidated polling place, the board appoints one commissioner-in-charge to serve at the consolidated polling place, and not less than two commissioners for each of the individual polling places that were consolidated.
- The Secretary of State does not agree with a reduction to only one (1) voting machine when not necessary or when there are more than 100 registered voters, as two (2) machines are a sufficient back up if one machine malfunctions on Election Day.

## **Chapter 12. Ethics and Dual Office Holding**

### **A. General Information**

- ❖ For general information on ethics laws and who to contact for more information, visit [www.ethics.state.la.us](http://www.ethics.state.la.us)

Or contact the Ethics Administration Program as follows:

Physical Address  
2415 Quail Drive, 3<sup>rd</sup> Floor  
Baton Rouge, LA 70808

Mailing Address  
P.O. Box 7368  
Baton Rouge, LA 70821

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Phone: 225-763-8777  
Toll Free: 800-842-6630

### B. Dual Office Holding

- LSA-R.S. 42:63 provides for certain prohibitions:
- No person shall hold an elective office, *appointive office*, or employment in any of the branches of state government or of a political subdivision at the same time while holding another elective office, appointive office, or employment in the government of a foreign country, in the government of the United States, or in the government of another state.
- No person shall hold office or employment in one branch of the state government while holding another office or employment in any other branch of state government.
- No person shall hold an elective office in the government of this state and at the same time hold another elective office, a full-time appointive office, or employment in the government of this state or in the government of a political subdivision thereof.

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## **IMPORTANT NUMBERS**

Attorney General.....225-326-6000

Secretary of State.....800-883-2805 / 225-922-0900



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## Open Meetings Law Addendum A

### **RS 42:4.1 - 42:4.13**

#### §4.1. Public policy for open meetings; liberal construction

A. It is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy. Toward this end, the provisions of R.S. 42:4.1 through 10 shall be construed liberally.

B. Further, to advance this policy, all public bodies shall post a copy of R.S. 42:4.1 through 13.

Added by Acts 1976, No. 665, §1; Acts 1999, No. 467, §1.

#### §4.2. Definitions

A. For the purposes of R.S. 42:1 through R.S. 42:12:

(1) "Meeting" means the convening of a quorum of a public body to deliberate or act on a matter over which the public body has supervision, control, jurisdiction, or advisory power. It shall also mean the convening of a quorum of a public body by the public body or by another public official to receive information regarding a matter over which the public body has supervision, control, jurisdiction, or advisory power.

(2) "Public body" means village, town, and city governing authorities; parish governing authorities; school boards and boards of levee and port commissioners; boards of publicly operated utilities; planning, zoning, and airport commissions; and any other state, parish, municipal, or special district boards, commissions, or authorities, and those of any political subdivision thereof, where such body possesses policy making, advisory, or administrative functions, including any committee or subcommittee of any of these bodies enumerated in this paragraph.

(3) "Quorum" means a simple majority of the total membership of a public body.

B. The provisions of R.S. 42:4.1 through R.S. 42:12 shall not apply to chance meetings or social gatherings of members of a public body at which there is no vote or other action taken, including formal or informal polling of the members.

Added by Acts 1979, No. 681, §1. Amended by Acts 1981, Ex.Sess., No. 21, §1, eff. Nov. 19, 1981; Acts 1988, No. 821, §1.

#### §5. Meetings of public bodies to be open to the public

A. Every meeting of any public body shall be open to the public unless closed pursuant to R.S. 42:6, R.S. 42:6.1, or R.S. 42:6.2.

B. Each public body shall be prohibited from utilizing any manner of proxy voting procedure, secret balloting, or any other means to circumvent the intent of R.S. 42:4.1 through R.S. 42:8.

C. All votes made by members of a public body shall be viva voce and shall be recorded in the minutes, journal, or other official, written proceedings of the body, which shall be a public document.

D. Except school boards, which shall be subject to R.S. 42:5.1, each public body conducting a meeting which is subject to the notice requirements of R.S. 42:7(A) shall provide an opportunity for public comment at such meeting, subject to reasonable rules, regulations, and restrictions as adopted by the public body.

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Added by Acts 1952, No. 484, §1. Amended by Acts 1976, No. 665, §1; Acts 1977, No. 707, §1; Acts 1978, No. 456, §1; Acts 1979, No. 681, §1; Acts 1981, Ex.Sess., No. 21, §1, eff. Nov. 19, 1981; Acts 1989, No. 55, §1; Acts 2001, No. 285, §1.

## **§5.1. School board meetings; public comment**

A. Notwithstanding any other law to the contrary, each school board subject to the provisions of this Chapter, except as provided in Subsection B of this Section, shall allow public comment at any meeting of the school board prior to taking any vote. The comment period shall be for each agenda item and shall precede each agenda item.

B. A school board in a parish containing a municipality with a population of four hundred thousand or more according to the latest federal decennial census, at any meeting of the school board, shall provide an opportunity for public comment subject to reasonable rules, regulations, and restrictions as adopted by the school board.

C. For purposes of this Section, a comment period for all comments at the beginning of a meeting shall not suffice to meet the requirements of Subsection A or Subsection B of this Section.

Acts 1997, No. 895, §1, eff. July 10, 1997; Acts 2005, No. 474, §1.

## **§6. Executive Sessions**

A public body may hold executive sessions upon an affirmative vote, taken at an open meeting for which notice has been given pursuant to R.S. 42:7, of two-thirds of its constituent members present. An executive session shall be limited to matters allowed to be exempted from discussion at open meetings by R.S. 42:6.1; however, no final or binding action shall be taken during an executive session. The vote of each member on the question of holding such an executive session and the reason for holding such an executive session shall be recorded and entered into the minutes of the meeting. Nothing in this Section or R.S. 42:6.1 shall be construed to require that any meeting be closed to the public, nor shall any executive session be used as a subterfuge to defeat the purposes of R.S. 42:4.1 through R.S. 42:8.

Acts 1952, No. 484, §1. Amended by Acts 1976, No. 665, §1; Acts 1977, No. 707, §1; Acts 1979, No. 681, §1.

### **§6.1. Exceptions to open meetings**

A. A public body may hold an executive session pursuant to R.S. 42:6 for one or more of the following reasons:

(1) Discussion of the character, professional competence, or physical or mental health of a person, provided that such person is notified in writing at least twenty-four hours before the meeting and that such person may require that such discussion be held at an open meeting, and provided that nothing in this Subsection shall permit an executive session for discussion of the appointment of a person to a public body. In cases of extraordinary emergency, written notice to such person shall not be required; however, the public body shall give such notice as it deems appropriate and circumstances permit.

(2) Strategy sessions or negotiations with respect to collective bargaining, prospective litigation after formal written demand, or litigation when an open meeting would have a detrimental effect on the bargaining or litigating position of the public body.

(3) Discussion regarding the report, development, or course of action regarding security personnel, plans, or devices.

(4) Investigative proceedings regarding allegations of misconduct.

(5) Cases of extraordinary emergency, which shall be limited to natural disaster, threat of epidemic, civil disturbances, suppression of insurrections, the repelling of invasions, or other matters of similar magnitude.

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(6) Any meeting of the State Mineral Board at which records or matters entitled to confidential status by existing law are required to be considered or discussed by the board with its staff or with any employee or other individual, firm, or corporation to whom such records or matters are confidential in their nature, and are disclosed to and accepted by the board subject to such privilege, for the exclusive use in evaluating lease bids or development covering state-owned lands and water bottoms, which exception is provided pursuant to and consistently with the Public Records Act, being Chapter 1 of Title 44 of the Louisiana Revised Statutes of 1950, as amended, and other such statutes to which the board is subject.

(7) Discussions between a city or parish school board and individual students or the parents or tutors of such students, or both, who are within the jurisdiction of the respective school system, regarding problems of such students or their parents or tutors; provided however that any such parent, tutor, or student may require that such discussions be held in an open meeting.

(8) Presentations and discussions at meetings of civil service boards of test questions, answers, and papers produced and exhibited by the office of the state examiner, municipal fire and police civil service, pursuant to R.S. 33:2492 or 2552.

(9) The portion of any meeting of the Second Injury Board during which records or matters regarding the settlement of a workers' compensation claim are required to be considered or discussed by the board with its staff in order to grant prior written approval as required by R.S. 23:1378(A)(8).

(10) Or any other matters now provided for or as may be provided for by the legislature.

B. The provisions of R.S. 42:4.1 through R.S. 42:12 shall not apply to judicial proceedings.

C. The provisions of R.S. 42:4.1 through R.S. 42:12 shall not prohibit the removal of any person or persons who willfully disrupt a meeting to the extent that orderly conduct of the meeting is seriously compromised.

D. The provisions of R.S. 42:7 and R.S. 42:7.1 shall not apply to any meeting of a private citizens' advisory group or a private citizens' advisory committee established by a public body, when the members of such group or committee do not receive any compensation and serve only in an advisory capacity, except textbook advisory committees of the State Department of Education or the Board of Elementary and Secondary Education. However, all other provisions contained in R.S. 42:4.1 through 42:12 shall be applicable to such group or committee and the public body which established such group or committee shall comply with the provisions of R.S. 42:7 in providing the required notice of meetings of such group or committee.

Added by Acts 1976, No. 665, §1. Amended by Acts 1979, No. 681, §1; Acts 1982, No. 215, §1; Acts 1989, No. 389, §1; Acts 2003, No. 336, §1, eff. June 13, 2003; Acts 2006, No. 90, §1, eff. May 25, 2006.

### §6.2. Executive or closed meetings of legislative houses and committees

A. Notwithstanding any contrary provision of R.S. 42:6 and R.S. 42:6.1, executive or closed meetings may be held by the legislature, either house thereof, or any committee or subcommittee of either house, upon the affirmative vote of at least a majority of the members of the house or the committee or subcommittee thereof making the determination to hold such meeting, for one or more of the following purposes:

(1) Discussion of confidential communications.

(2) Discussion of the character, professional competence, or physical or mental health of any person subject to contract with or to employment, election, or appointment or confirmation of appointment by either house of the legislature or any committee or subcommittee of either or by any other public body.

(3) Strategy sessions or negotiations with respect to collective bargaining, prospective litigation after formal written demand, or litigation when an open meeting would have a detrimental effect on the bargaining or litigating position of the legislature, either house thereof, or any committee or subcommittee of either house.

(4) Discussion regarding a report, development, or course of action regarding security personnel, plans, or devices.

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(5) Investigations by the legislature, either house thereof, or by any committee or subcommittee thereof, including the Legislative Audit Advisory Council or any other joint or statutory committee, whenever reasonable grounds exist to believe that the testimony to be elicited will reflect a failure of compliance with law.

(6) Cases of extraordinary emergency, which shall be limited to natural disaster, threat of epidemic, civil disturbances, suppression of insurrections, the repelling of invasions, or other matters of similar magnitude.

(7) Discussion by either house of the legislature, or any committee or subcommittee thereof, of any matter affecting the internal operations or management of the body.

(8) Any other matters provided by law or pursuant to the joint rules of the legislature.

B. All procedural matters pertaining to the necessity, purposes, or reasons for the holding of executive or closed meetings under the provisions of this Section shall be in accordance with such rules as are adopted by each of the houses of the legislature for the purpose.

C. The provisions of R.S. 42:4.1 through R.S. 42:12 shall not apply to chance meetings, social gatherings, or other gatherings at which only presentations are made to members of the legislature or members of either house thereof or of any committee or subcommittee if no vote or other action, including formal or informal polling of members, is taken.

Added by Acts 1981, Ex.Sess., No. 21, §1, eff. Nov. 19, 1981.

### §7. Notice of meetings

A.(1)(a) All public bodies, except the legislature and its committees and subcommittees, shall give written public notice of their regular meetings, if established by law, resolution, or ordinance, at the beginning of each calendar year. Such notice shall include the dates, times, and places of such meetings.

(b)(i) All public bodies, except the legislature and its committees and subcommittees, shall give written public notice of any regular, special, or rescheduled meeting no later than twenty-four hours before the meeting.

(ii) Such notice shall include the agenda, date, time, and place of the meeting, provided that upon approval of two-thirds of the members present at a meeting of a public body, the public body may take up a matter not on the agenda.

(iii) Following the above information there shall also be attached to the written public notice of the meeting, whether or not such matters will be discussed in an executive session held pursuant to R.S. 42:6.1(A)(2):

(aa) A statement identifying the court, case number, and the parties relative to any pending litigation to be considered at the meeting.

(bb) A statement identifying the parties involved and reasonably identifying the subject matter of any prospective litigation for which formal written demand has been made that is to be considered at the meeting.

(iv) In cases of extraordinary emergency, such notice shall not be required; however, the public body shall give such notice of the meeting as it deems appropriate and circumstances permit.

(2) Written public notice given by all public bodies, except the legislature and its committees and subcommittees, shall include, but need not be limited to:

(a) Posting a copy of the notice at the principal office of the public body holding the meeting, or if no such office exists, at the building in which the meeting is to be held; or by publication of the notice in an official journal of the public body no less than twenty-four hours before the meeting.

(b) Mailing a copy of the notice to any member of the news media who requests notice of such meetings; any such member of the news media shall be given notice of all meetings in the same manner as is given to members of the public body.

B. Reasonable public notice of day to day sessions of either house of the legislature, and of all matters pertaining to such meetings, including but not necessarily restricted to the content of notices, quorums for the

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transaction of business, proxy voting, viva-voce votes, and recordation of votes, shall be governed by the provisions of the Louisiana Constitution, the rules of procedure of the Senate and the House of Representatives, and the Joint Rules applicable to both houses. Reasonable public notice of meetings of legislative committees and subcommittees shall be given in accordance with such rules as are adopted by the respective houses for the purpose.

Added by Acts 1952, No. 484, §1. Amended by Acts 1972, No. 669, §1; Acts 1976, No. 665, §1; Acts 1977, No. 707, §1; Acts 1979, No. 681, §1; Acts 1981, Ex.Sess., No. 21, §1, eff. Nov. 19, 1981; Acts 1989, No. 390, §1.

## §7.1. Written minutes

A. All public bodies shall keep written minutes of all of their open meetings. The minutes to be kept by the legislature and legislative committees and subcommittees shall be governed by the provisions of R.S. 42:7.2. The minutes of all other public bodies shall include but need not be limited to:

- (1) The date, time, and place of the meeting.
- (2) The members of the public body recorded as either present or absent.
- (3) The substance of all matters decided, and, at the request of any member, a record, by individual member, of any votes taken.
- (4) Any other information that the public body requests be included or reflected in the minutes.

B. The minutes shall be public records and shall be available within a reasonable time after the meeting, except where such disclosures would be inconsistent with R.S. 42:6, R.S. 42:6.1, and R.S. 42:6.2, or rules adopted under the provisions of R.S. 42:7.2.

Added by Acts 1976, No. 665, §1. Amended by Acts 1981, Ex.Sess., No. 21, §1, eff. Nov. 19, 1981.

## §7.2. Minutes of legislative sessions, legislative committees and subcommittees

A. The journals of the proceedings of each of the houses of the legislature, as required to be kept by the provisions of Article III, Section 10(B) of the Louisiana Constitution, shall constitute the written minutes of open sessions of the Senate and of the House of Representatives.

B. The written minutes of standing, interim, joint, and other committees and subcommittees of the Senate and House of Representatives shall include such information as may be required by the rules of the respective houses.

Added by Acts 1981, Ex.Sess., No. 21, §1, eff. Nov. 19, 1981.

## §7.3. Presentation and consideration of offer to sell natural gas to a public body, or to operate or acquire ownership of, a gas utility owned or operated by a public body

A. For the purposes of this Section, "gas utility" means any revenue producing business or organization which is owned or operated by a public body, and which regularly supplies the public with natural gas at retail.

B. Prior to consideration or action by a public body to accept a proposal by a nonpublic entity to sell natural gas to a public body for use in its gas distribution system sales to retail customers for a term exceeding twelve months including rollovers or extensions, or to assume operation or acquire ownership of, a gas utility being operated or owned by the public body, the proposal shall:

- (1) Be introduced, in writing, at an open meeting of the public body.
- (2) Not be considered by the public body until notice of the proposal has been published in the official journal of the public body and at least thirty days has lapsed after the introduction of the proposal.
- (3) Include a written report of the most recent five-year history of the sale of natural gas to similar public bodies for use in gas distribution system sales to retail customers for a term exceeding twelve months including rollovers or extensions by the nonpublic entity if the entity is seeking to sell natural gas to a public body for use in

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its gas distribution system sales to retail customers for a term exceeding twelve months including rollovers or extensions to the public body or a five-year history of the purchase price of other gas utilities operated or owned by a public body paid by the nonpublic entity if the entity is seeking to assume operation or acquire ownership of the utility. A copy of the report shall be provided to all members of the public body and be available to the public.

(4) Include any written contract or agreement proposed between the nonpublic entity seeking to sell natural gas to a public body for use in its gas distribution system sales to retail customers for a term exceeding twelve months including rollovers or extensions to, or assume operation or acquire ownership of, the gas utility and the public body. A copy of the contract or agreement shall be provided to all members of the public body and be available to the public.

C. Notice of the proposal and the availability of the written report and contract or agreement shall be published once in the official journal of the public body. The notice shall indicate the time and place where the public body will hold a public hearing and consider the proposal.

D. No proposal shall be considered until a public hearing on it has been held. No proposal can be adopted at the meeting at which it is introduced.

E. Any proposed revision or amendment of the published contract or agreement shall be noticed, published, and made available in its entirety in the same manner as required for the original contract or agreement. No such contract or agreement shall be entered into by the public body until at least thirty days have lapsed since the notice of the availability of the revised contract or agreement has been published.

Acts 2003, No. 1274, §1, eff. July 11, 2003.

### §8. Sonic and video recordings; live broadcast

A. All or any part of the proceedings in a public meeting may be video or tape recorded, filmed, or broadcast live.

B. A public body shall establish standards for the use of lighting, recording or broadcasting equipment to insure proper decorum in a public meeting.

Added by Acts 1952, No. 484, §1. Amended by Acts 1972, No. 669, §1; Acts 1989, No. 172, §1.

### 9. Voidability

Any action taken in violation of R.S. 42:4.1 through R.S. 42:8 shall be voidable by a court of competent jurisdiction. A suit to void any action must be commenced within sixty days of the action.

Added by Acts 1972, No. 669, §2. Amended by Acts 1976, No. 665, §1; Acts 1979, No. 681, §1.

### §10. Enforcement

A. The attorney general shall enforce the provisions of R.S. 42:4.1 through R.S. 42:8 throughout the state. He may institute enforcement proceedings on his own initiative and shall institute such proceedings upon a complaint filed with him by any person, unless written reasons are given as to why the suit should not be filed.

B. Each district attorney shall enforce the provisions of R.S. 42:4.1 through R.S. 42:8 throughout the judicial district within which he serves. He may institute enforcement proceedings on his own initiative and shall institute such proceedings upon a complaint filed with him by any person, unless written reasons are given as to why the suit should not be filed.

C. Any person who has been denied any right conferred by the provisions of R.S. 42:4.1 through R.S. 42:8 or who has reason to believe that the provisions of R.S. 42:4.1 through R.S. 42:8 have been violated may institute enforcement proceedings.

Added by Acts 1976, No. 665, §1. Amended by Acts 1977, No. 707, §1; Acts 1979, No. 681, §1.

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## **§11. Remedies; jurisdiction; authority; attorney fees**

A. In any enforcement proceeding the plaintiff may seek and the court may grant any or all of the following forms of relief:

- (1) A writ of mandamus.
- (2) Injunctive relief.
- (3) Declaratory judgment.
- (4) Judgment rendering the action void as provided in R.S. 42:9.
- (5) Judgment awarding civil penalties as provided in R.S. 42:13.

B. In any enforcement proceeding the court has jurisdiction and authority to issue all necessary orders to require compliance with, or to prevent noncompliance with, or to declare the rights of parties under the provisions of R.S. 42:4.1 through R.S. 42:12. Any noncompliance with the orders of the court may be punished as contempt of court.

C. If a person who brings an enforcement proceeding prevails, he shall be awarded reasonable attorney fees and other costs of litigation. If such person prevails in part, the court may award him reasonable attorney fees or an appropriate portion thereof. If the court finds that the proceeding was of a frivolous nature and was brought with no substantial justification, it may award reasonable attorney fees to the prevailing party.

Added by Acts 1979, No. 681, §1. Acts 1989, No. 54, §1.

## **§12. Venue; summary proceedings**

A. Enforcement proceedings shall be instituted in the district court for the parish in which the meeting took place or will take place.

B. Enforcement proceedings shall be tried by preference and in a summary manner. Any appellate court to which the proceeding is brought shall place it on its preferential docket, shall hear it without delay, and shall render a decision as soon as practicable.

Added by Acts 1979, No. 681, §1.

## **§13. Civil penalties**

Any member of a public body who knowingly and willfully participates in a meeting conducted in violation of R.S. 42:4.1 through R.S. 42:8, shall be subject to a civil penalty not to exceed one hundred dollars per violation. The member shall be personally liable for the payment of such penalty. A suit to collect such penalty must be instituted within sixty days of the violation.

Acts 1989, No. 54, §1.

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## **Comments:**

Please send any comments for improvement to this handbook to:

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